

## **ORAL TESTIMONY**

Good Morning Mr. Chairman &, members of the committee:

My name is Casey Judd. I am the Business Manager for the Federal Wildland Fire Service Association. The FWFSA is an employee association created by federal wildland firefighters in 1991. Our members hold positions throughout the GS grade system from the entry-level GS2 or 3's to FMO's or Fire Management Officers in the GS-12 range. As a result, the FWFSA itself receives a wealth of information on the impact of pay and personnel policies in the everyday lives of its members along with the environment of their working conditions they face on the fire lines. Such information is not readily available to other government agencies.

It is my responsibility to represent the Association's members in a legislative/political capacity by developing legislative proposals designed to achieve the Association's goals and objectives, and to educate and secure the support of members of congress and other federal agencies on these issues.

I was a federal firefighter employed by the Dept. of Defense for 20 years and previously held the elected position of 5<sup>th</sup> District VP for the California Professional Firefighters, a position which provided legislative/political representation for the state's federal firefighters. I also nearly won a position on the Executive Board of the International Association of Fire Fighters in 2003, losing by 21 votes in a special election for the 16<sup>th</sup> district which covers the entire United States and Canada. I have been working with members of congress on federal firefighter issues for over a decade.

As committee members, I'm sure you are all used to the formality of witnesses offering their thanks for the opportunity to appear before you. I certainly am not here to change that tradition but to expound upon it.

I have worked with various members of this subcommittee's staff for nearly 10 years and I would be remiss if I did not express the FWFSAs and my personal sincerest appreciation on the record to you for taking an interest in the issues and scheduling these hearings, but also to Chris Barkley of the subcommittee staff. Chris has taken the time to pour over reams of documentation provided by the FWFSAs on issues affecting wildland firefighters and has taken an interest not even I would have expected, but certainly welcome, in understanding what our firefighters face.

Although unfortunate that more members of the committee and Congressman Pombo could not be present today as a result of the August recess and scheduling conflicts, it is our fervent hope that as a result of this hearing and our continuing work with the subcommittee staff, your leadership will encourage the other members of this subcommittee and the full committee to take the time to truly understand the dynamics of the issues facing the brave men and women who make up our federal wildland firefighters and move this bill accordingly.

The subcommittee has received written testimony from me along with several other current federal wildland firefighters. We had hoped to have additional written testimony and would have liked for a number of firefighters to be present today. However as you can surmise, we are in the

middle of a fire season and most of our folks are already on fire assignments throughout the Western United States.

We trust each of you will take the time to thoroughly read the testimony provided by our firefighters if you haven't already. We believe it will paint a very clear picture of the long-standing detrimental affects current pay and personnel policies are having on the Nation's federal wildland firefighters and will also illustrate the ramifications of maintaining the status quo with respect to those policies. We trust the testimony will also provide guidance on how to affect positive change not only for our firefighters, but the Nation's taxpayers.

HR 408, The Federal Wildland Firefighter Emergency Response Compensation Act, is the second in a series of bills introduced by Congressman Pombo on behalf of the Nation's federal wildland firefighters. His first effort, H.R. 2814 was well-received by this subcommittee under the chairmanship of former congressman Joe Scarborough. During hearings before what was then the Subcommittee on Civil Service and additional testimony before the Subcommittee on Forests & Forest Health, the FWFSa laid the groundwork for HR 408. Although opposed by OPM in favor of a legislative proposal offered by the Administration, HR 2814, which eliminated the overtime pay cap for federal wildland firefighters, was passed by Congress & signed into law in 2000.

The issues identified in HR 408 and supporting testimony are certainly not new. The concept of portal to portal pay along with the proper classification of wildland firefighters has been discussed for over two decades by the land-

management agencies themselves. Numerous meetings have resulted in recommendations from a variety of sources suggesting that the time has come for proper classification while also identifying the benefits of portal to portal pay for federal wildland firefighters.

Despite these recommendations and the employing agency's very own findings on the benefits of portal to portal pay, proper classification and other personnel & pay reforms, firefighters continue to face bureaucratic opposition to these reforms.

Whether it be the political appointees of the land-management agencies fearing the loss of such appointments, or bureaucratic bean-counters with absolutely no insight into the world of wildland firefighting, our brave men and women have been stymied for years in being properly recognized as firefighters and properly compensated for their life-risking duties. Yet sadly, these very bureaucrats who classify these employees as Forestry Technicians, Range Technicians and Biological Science Technicians refer to them as **"firefighters"** when our men and women lose their lives in the line of duty.

Despite data to the contrary, the government continues to suggest there are no recruitment and retention problems within the federal wildland firefighting community. Such opinions are truly misleading when it becomes evident that the data used by the government fails to take into account the loss rates for seasonal firefighters who make up nearly 50% of annual firefighting staffing.

Responding to HR 408, the Administration and land-management agencies have suggested that implementing such legislation would be prohibitively expensive, rather than embracing the reality that it might in fact mandate that the agencies develop more cost-effective and efficient fire suppression funding policies and practices and in fact would require them to become more fiscally responsible to the American taxpayer. Given that the Forest Service has chosen to rake one hundred million dollars off the top of the suppression budget to move its Human Resources department to New Mexico, it would seem a logical conclusion that fiscal policies could be more efficient.

The Administration has also suggested that implementing HR 408 would *create* a pay disparity between wildland firefighters and other federal employees who are sent on temporary assignments. As I indicated in my written testimony, *the only* government employee who faces the same dangers and working conditions that our firefighters face, are the men and women of the Armed Services. Yet they are not taken “off the clock” and put into non-pay status when resting and eating. I think we would all agree that applying such policies to the military would be as ludicrous as it is to our firefighters.

Add to that the typical phenomenon among government agencies where a portion of appropriated dollars somehow get lost before reaching their intended targets, in this case fire managers who need to staff and equip their firefighters for the season, and you begin to understand that it is time for Congress to take action on these issues.

The opposition from government agencies is nothing new. We faced it head on when dealing with the Dept. of Defense & OPM in the mid to late '90s when working to bring pay reform to federal firefighters employed by DoD and again as I mentioned, in 1999 with HR 2814. On each occasion, congress understood the need for such reforms and passed our legislation.

While the opposition is not surprising, it is disappointing and difficult to understand given that it is these same government entities that have time and again over years and years, identified these same reform measures as practices and policies that need to be adopted. We find ourselves in the 21<sup>st</sup> century, responding to a variety of incidents and environments yet being managed through archaic, out-of-date policies. Quite simply, current pay and personnel policies have created a number of dynamics all converging in a convoluted, never-ending vicious cycle.

There are approximately 16,000 employees in the 0462 Forestry Technician series. Of that, about 54% are permanent, the remaining are seasonal and temporary firefighters who don't even receive basic health care for risking their lives.

Additionally, for years the Forest Service has relied upon other "non-primary firefighting" Forest Service employees to perform collateral duties on wildfires. We have identified these employees as the "militia" in our written testimony. Despite the Forest Service still relying on such employees, a number of studies report that the number of "militia" personnel actually responding to wildfire incidents continues to decline substantially as a result of antiquated policies and a variety of other reasons. Further,

recruitment & retention, always an issue in many federal occupations as a result of lower pay and benefits than private counterparts, continues to be a major problem on individual forests in the west regardless of the more “optimistic” picture painted by the agencies and Administration. Retention rates in some areas are less than 50%. On other forests, vacancies simply can’t be filled.

Let us also not forget that in 1990, the 1<sup>st</sup> President Bush signed the Federal Employees Pay Comparability Act (FEPCA) into law. It was designed to help close the disparity in pay between federal employees and their counterparts in the private sector. However each year since its enactment, the provisions of the law have not been properly or adequately implemented.

As a result of serious recruitment and retention problems among primary federal wildland firefighters and the ever-increasing reluctance on the part of members of the “militia” to respond to fires, the land-management agencies have become more and more reliant on cooperative agreements with state and local fire agencies as well as private, for-profit contract companies.

There is no doubt that cooperative agreements with such fire agencies in a number of cases are crucial to prompt responses to wildfires each season...to a point. The inherent higher costs of such resources, often substantially higher than comparable personnel and equipment from the federal land-management agencies, must be looked at and is, in our opinion, one of the greatest causes for the sky-rocketing costs of wildfire suppression across the country.

Not only do these higher costs impact our Nation's taxpayers, the negative financial impact it has on the Government's own wildland firefighters fuels the continuing loss of qualified, well trained (at taxpayer expense of course) federal wildland firefighters causing the recruitment and retention problems we refer to.

The concept of equal pay for equal work *should* be important to the federal government to ensure it retains its workforce whose training and expertise, in the case of wildland firefighters, should be considered an investment by taxpayers in the protection of this Country's natural resources as well as their real & personal property. Instead, the financial inequities faced by our federal wildland firefighters between themselves and their counterparts breeds low morale and creates sufficient incentive for these firefighters to leave the federal service. As a result, as recent GAO studies have shown, the current cache of fire management personnel are closing in on retirement while those that should be preparing for long careers to take on such management assignments are rapidly leaving for better pay and benefits outside of the federal system after receiving significant training.

Given that it may take 17-25 years of training and experience to become a Type I or Type II incident commander, it becomes quite clear that current archaic policies must be amended to rebuild the ranks of federal wildland firefighter staffing.

Unfortunately, instead of reforming pay and personnel policies to ensure the survival of the federal wildland fire service and increase the return on our taxpayer's investment by giving them the greatest "bang for their buck,"



land-management agencies seem content on relying on more expensive cooperators and contractors to fill the ever-increasing gaps in wildfire staffing assignments. The question is why? The answer is simple. These agencies have no incentive to change the way in which they do business. They have no true incentive to become more cost-effective and efficient. There is virtually no oversight and no one to be held responsible for irresponsible fiscal policy.

Historically, Congress will ultimately fund fire suppression costs, whether they do it at 100% of the preparedness budgets, or providing supplemental appropriations at the end of the season. In recent years some in Congress has chastised the Chief of the Forest Service for borrowing funds from other projects to pay for suppression. Yet in the end, Congress provides the necessary funds to restore those projects and pay for all suppression expenses, regardless of the cost.

We firmly believe many in Congress are totally unaware of the enormous costs expended by the land-management agencies to pay for contractors and cooperators in salaries and associated costs as compared to what they pay their own federal wildland firefighters.

So as to avoid being redundant, written testimony from the FWFSa clearly outlines the variety of costs paid and the significantly higher rates they are paid at.

Congress **has** begun to pose questions of the land-management agencies about the ever-increasing costs of fires. Unfortunately the answers they get

are not necessarily consistent with what our firefighters see in the field. And inevitably, despite receiving the necessary funding for suppression, the land-management agencies often “re-direct” those funds targeted for fire suppression to other “projects” such as the Human Resources Department move to New Mexico. As a result, our firefighters are told they can’t hire seasonal firefighters, can’t properly staff engines etc. At the same time, the agencies are more than willing to pay significantly higher costs to cooperators and contractors. This simply doesn’t make sense.

### **INEQUITY & COST EXAMPLES**

Allow me to offer some fire line facts. They are in no way intended to disrespect Mr. Beaman and the firefighters he represents. We are proud of the efforts our municipal brothers and sisters have made across the country with respect to securing well-earned pay and benefits for themselves. Therein however lies the distinct difference between municipal firefighters and federal firefighters. Municipal firefighters have the right, contractually to negotiate pay and benefits with their City Councils, Boards of Supervisors and State Governments. As you know, federal employees do not enjoy that same right. As a result, pay and benefits in the federal sector lag far behind those who perform the same work not only in the private sector but for local and state governments.

Nearly every paid professional firefighter in the United States, including federal civilian firefighters of DoD work a tour of duty of 24 hours. They are compensated for that tour of duty which includes sleep time and meal time. They are compensated for that 24 hour period whether they respond to

a call or not. This compensation policy is a form of portal to portal pay, in other words you are paid from the time you get to work until the time you get off work. You are compensated for responding and being available to respond to all incidents.

Basic rates of pay for cooperators can be as high as 2-3 times that of comparable positions in the federal fire service...even higher for some contract outfits. Thus a pay inequity exists even before arriving on a fire.

On a typical wildfire assignment that lasts longer than 24 hours, the federal government pays cooperators, portal to portal pay, in other words their full normal 24 hour pay at the already higher rates of pay. It doesn't stop there. They also pay the department from which the cooperator came from, a 17% "administrative" fee and costs to backfill that position. This "admin fee" is not set in stone and in fact the costs can be substantially more.

More often than not, if lodging is available nearby, cooperative agreements the land-management agencies have entered into will require the federal government to pay for the lodging costs for cooperators who are of course being compensated by the federal government while they sleep. If the cooperators are chief officers and arrive in command vehicles, mileage costs are incurred by the government. In addition the cost of suppression equipment such as engines, water tankers etc., are also borne by the government.

Now let's see what the federal firefighters get.

Although these firefighters may be thousands of miles away from home for up to 14 consecutive 24 hour days or more in some of the most inhospitable terrain in the country, current policy states they are only guaranteed 8 hours of pay per day. Out of the 24 hours in a day, while the federal government pays cooperators and contractors for a full 24 hours, they pay their own firefighters generally no more than 10-14 hours a day at a maximum. As previously mentioned, the seasonal or temporary federal wildland firefighters don't even receive basic health coverage to risk their lives.

While the federal government compensates contractors and cooperators for their sleep and meal times, they take their own firefighters "off the clock" during sleep and meal times. It is common for federal wildland firefighters to wait hours in a non-pay status just to eat.

While contractors and cooperators are housed in available lodging at federal government expense, federal wildland firefighters are lucky to even get to fire camp with a sleeping bag, often times sleeping without cover on rocks and dirt.

As an example the cost to the Six Rivers National Forest this season for a 5 man contract engine crew for an 8 hour day was **\$2850.00**, the same cost to the forest for a **20 man** federal hot shot crew.

The cost to the government (inclusive of benefits, retirement etc) for a federal wildland firefighter "deputy chief" may be \$45.00 per hour. The cost for a comparable officer from a local department in salary alone...\$190.00 per hour.

These are just a few examples of the root causes of sky-rocketing wildfire suppression costs. Add to that scenario the inability and unwillingness of the land-management agencies to properly staff their federal wildland firefighter positions with primary wildland firefighters and you begin to realize why action needs to be taken now.

Again, we are not in any way suggesting the elimination of the use of contractors and cooperators. Rather, we believe legislation such as HR 408 would provide the “nudge” necessary for the land-management agencies to establish pay and personnel policies that will lead to a reduced reliance on higher priced resources and allow said funds to be re-directed to allow proper staffing of federal wildland firefighter positions. We firmly believe that such reform measures can likely be accomplished within the current budget of the land management agencies and will stem the tide of recruitment and retention issues in the federal wildland firefighting community while saving the American taxpayers significant tax dollars each fire season.

It should be noted that a recent study entitled **Policy Implications of Large Fire Management: A strategic Assessment of Factors Influencing Costs** by a group that included Mr. Tom Harbour, the current Director of Fire & Aviation Management at the Forest Service’s National Headquarters in Washington DC, found that on a fire complex called the **Kirk Complex**, “State & local employees were paid based on a “portal to portal” concept. That is, they are paid from the time they leave their official station to the time they return. Their hourly rate is also more. A typical paid shift length

for a federal firefighter was 14 hours compared to the typical non-federal paid shift length of 24 hours. In terms of costs to the fire, this translates into about \$1006 per shift for the state and local employee and \$360 per shift for the federal employee. Clearly this creates an issue of morale. Working side by side, one would expect equal pay for equal work. This inequity must be corrected. The report went on to say that because of these pay issues, it is estimated that about \$25 million dollars could have been saved on these fires if Federal employees could have staffed the entire incident.”

Mr. Chairman, that coming from the Management side of the Forest Service should be a clear indication to you and this subcommittee that it is time to reform the existing pay and personnel policies. The passage of HR 408 and the proper classification of our federal wildland firefighters is clearly a step in the right direction.

If there are those in Congress, the land management agencies and Administration who discount these problems and will suggest to you these issues shouldn't be fixed, than we invite any one of them to fill the boots of a federal wildland firefighter on a 14 day consecutive assignment. We encourage them to cut miles of line, shower once a week and know that as they stand in line for 2-3 hours to eat MREs, they aren't getting paid while the firefighter next to them is.

The invitation is open.

### **OTHER SUBJECTS TO CONSIDER**

As I close, I would like to allude to two other issues brought up in our written testimony that need to be addressed but are not incorporated into HR 408.

The first is providing hazard pay on “prescribed burns.” Despite being “planned” and orchestrated, these fires still possess the inherent dangers of any wildfire. We still lose wildland firefighters on prescribed burns and it is unconscionable not to provide what amounts to an extra 25 cents on the dollar for hazard pay. Secondly and perhaps a bit more egregious is the expectation of the land-management agencies and the Administration for our seasonal/temporary firefighters, some in entry level grades as ridiculously low as GS 2 or 3, to risk their lives without any health benefits. Such a policy defies logic. It should be noted that when I met with Acting OPM Director Dan Blair in Washington DC on July 8<sup>th</sup>, he was surprised that seasonal wildland firefighters received no health benefits.

One final note from a female wildland firefighter from Montana who wrote to me in response to reading OPM’s draft letter in opposition of HR 408 she writes: [Have them take a standards test and a pack test then send them out to a crappy piece of land somewhere. Oh, and give them the bad yellow GSA line gear and the leather gloves made by the society for the blind and inmate crews. Have them chink line in poison oak-invested manzanita for two weeks with bad contractor grade food \(green meat\) lunches. It may change their attitude. She finishes with the people sitting in their offices never built a house...it was the man swinging the hammer.](#)

With that Mr. Chairman, I conclude my testimony and would be delighted to answer any questions you may have.

